

REMARKS

In a Final Office Action mailed on August 22, 2008, claims 1-3, 5, 7, 11, 12, 16, 18, 22, 97 and 99-103 were rejected under 35 U.S.C. § 112, second paragraph; and claims 1-3, 5, 7, 11, 12, 16, 18, 22, 97 and 99-103 were rejected under 35 U.S.C. § 102(b) as being anticipated by Phipps.

Regarding the § 112, second paragraph rejections, Applicant respectfully submits that the Examiner has failed to set forth a proper basis for any of the § 112, second paragraph rejections. The rejections appear to be based on the failure of the claims to incorporate the first and second tubings as explicit elements. For example, the apparatus of independent claim 1 recites a body that includes a first opening to receive a first tubing section and a second opening to receive a second tubing section. However, claim 1 does not include the first and second tubing sections as explicit elements. It is noted that the Examiner states on page 2 of the Office Action, "the Examiner must conclude that the first and second tubing sections are considered part of the claimed invention," in page 2 of the Office Action but later states on page 3 of the Office Action, "note, the first and second tubing sections are not considered part of the claimed invention."

Applicant respectfully submits that claims 1 and 2 meet the requirements of 35 U.S.C. § 112, which has two general requirements: 1.) the claims must set forth the subject matter that Applicant's regard as their invention; and 2.) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant. M.P.E.P. § 2171. The Office Action fails to specifically point out why the claims do not comply with these two requirements. It appears the claims may be improperly rejected on the basis that the claims omit essential matter. However, such a basis would be improper, as the Examiner has not shown where in the specification or statement of record the Applicant has deemed the first and/or second tubing sections to be essential to the invention. M.P.E.P. § 2172.01. In view of the foregoing, Applicant respectfully requests withdrawal of the § 112, second paragraph rejections.

Regarding the § 102 rejections, the apparatus of claim 1 recites that the tubular member includes a passageway adapted to align with the passageway of the body of the connector such that a gap exists between the passageway of the body and the passageway of the tubular member when both the first and second tubing sections are fully received in the first and second openings of the body, and the sleeve is in the retracted position.

The Office Action still fails to label numerous specific elements of claim 1 that are purportedly disclosed in Phipps, as only elements that purportedly correspond to the sleeve, sealing element and tubular member have been labeled. Without a clearer statement of the § 102 rejections from the Examiner, Applicant cannot fully address the § 102 rejections. It is noted that the structure disclosed in Phipps does not appear to meet the claim limitations for at least the reason that the threaded collar 52 (the alleged sleeve) is apparently incapable of being retracted when the purported first and second tubing sections are fully received in first and second openings of a body that is adapted to receive first and second tubing sections. For at least this reason, Phipps fails to anticipate independent claim 1.

Phipps fails to anticipate either independent claim 97 or 101 for at least the same reasons. In this regard, Phipps fails to disclose at least the sleeve being in a retracted position when first and second tubing sections are fully received in first and second openings of a body, as recited in independent claims 97 and 101. Dependent claims 2, 3, 11, 12, 16, 18, 22, 99, 100, 102 and 103 are patentable for at least the reason that these claims depend from allowable claims.

CONCLUSION

In view of the foregoing, Applicant respectfully requests withdrawal of the §§ 102 and 112 rejections and a favorable action in the form of a Notice of Allowance. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (SHL.0238US).

Respectfully submitted,

Date: October 22, 2008

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